

REMARKS

Claims 1-48 are pending in this application.

No new matter has been added. Any amendments to and/or cancellation of the claims was done solely to more particularly point out and distinctly claim the subject matter of Applicants' invention in order to expedite the prosecution of the application. Applicants reserve the right to pursue the claims as originally filed in this or a separate application(s).

Election/Restriction

The Examiner has required restriction between the following inventions in the above-identified application:

Group I encompassing claims 1-21 drawn to a method of assembling several DNA units in sequence;

Group II encompassing claims 22, 24-26, 29, 32-43, 47 and 48, drawn to a DNA construct (claim 22), a plurality of host cells (claim 24), a plurality of transformed hybrid host cells (claim 25), a compound (claim 26), a transformed host (claim 29), a library of DNA units (claims 32-36), a module (claims 37-41), a vector (claims 42 and 43), a host lacking a recA function (claim 47), and a kit (claim 48);

Group III encompassing claim 23 drawn to a synthetic enzyme;

Group IV encompassing claims 27, 28, 30 and 31, drawn to a method of synthesizing or producing a target molecule; and

Group V encompassing claims 44-46, drawn to a method of transforming a host.

Applicant hereby elects, *with traverse*, Group I (claims 1-21, directed to a method for of assembling several DNA units in sequence) for prosecution in the present application.

Applicant traverses the foregoing restriction requirement and respectfully requests that Groups II to V be regrouped with Group I as a single invention. It is Applicant's position that Groups I-V are directed to a single inventive concept, this concept being a means to assemble DNA units in sequence. Therefore, Applicant submits that the compositions of Groups II and III

and the methods of Groups IV and V are integrally related to the methods of Group I. As such, Groups II-V should be rejoined with Group I. As the M.P.E.P. states:

[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. M.P.E.P. § 803.

The inventions of Groups I-V all relate to means for assembling DNA units in sequence. As such the searches with regard to these inventions would be co-extensive and would not involve a serious burden on the Examiner.

Accordingly, at least for the foregoing reasons, Applicant requests rejoinder of Groups II-V with Group I.

Species Election

In addition, the Examiner is of the opinion that the application contains claims directed to the following patentably distinct species and requires election of one species from the following categories:

- (1) one or more of the DNA units are derived from polyketide synthesizing enzyme domain DNA sequences (claim 17);
- (2) one or more of the DNA units are derived from peptide synthesizing enzyme domain DNA sequences (claim 18);
- (3) one or more of the DNA units are derived from hybrid peptide polyketide enzyme domain DNA sequences (claim 19);
- (4) one or more of the DNA units are derived from fatty acid synthesizing enzyme domain DNA sequences (claim 20).

Accordingly, Applicant elects species (1).

It is Applicant's understanding that under 35 U.S.C. §121, an election of a single species for prosecution on the merits is required, to which the claims will be restricted if no generic claim is finally held allowable. Applicants submit that at least claims 1 and 9 are generic.

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Applicant further understands that upon allowance of a generic claim, he will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141 *et seq.*

SUMMARY

Reconsideration and allowance of all the pending claims is respectfully requested. If a telephone conversation with Applicant's Attorney would expedite the prosecution of the above-identified application, the examiner is urged to call the undersigned at (617) 227-7400.

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Respectfully submitted,

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